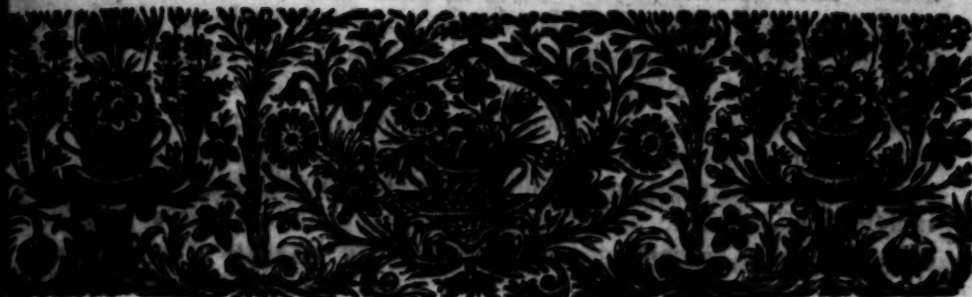


** Great Brit. Geo. II*

No 6

[1]




358.66
3

A N

C. 6

A C T

For Dividing and Inclosing the Open and Common Fields of Asfordby, in the County of Leicester.

 **P**ERCEAS there are several Open Arable, Common Preamble.
Meadow and Pasture Fields, in the Manor and Parish
of *Asfordby*, in the County of *Leicester*, containing
together, by Estimation, about Eighteen-hundred Acres.
And whereas *Thomas Smith, Esq;* is Lord of the *Thomas Smith,*
Manor of *Asfordby* aforesaid, and a Proprietor of a *Esq; Lord of*
considerable Part of the Lands and Grounds in the said Fields, and *the Manor.*
of Right of Common therein; *Andrew Burnaby, Clerk,* is Patron and *Andrew Bur-*
Rector of the Rectory and Church of *Asfordby* aforesaid, and intitled *naby, Rector.*
to all the great and small Tythes, and all other Rectorial and Vicarial
Dues arising within the said Parish, and to the Glebe and other Land,
and to Right of Common in the said Fields; and the Right Honourable Rest of the
Richard Lord Viscount Howe, in the Kingdom of *Ireland;* and *John Hill,* Proprietors,
Eleanor

Proprietors
desirous of
inclosing.

Eleanor Hill, Spinster; *John Hubbard*, *Thomas Reeve*, and others, are entitled to the Residue of the Land, Ground, and Right of Common therein. And whereas the Land and Ground of the several Proprietors in the said Fields lie intermixed and dispersed in small Parcels, in and over the same, and are, in their present Situation, incapable of much, if any, Improvement; and it would tend to the Advantage of the several Persons interested in the said Fields, to have the same divided and inclosed, and specific Shares and Parts thereof allotted and assigned to each Proprietor, according to their respective Properties and Interest therein: But such Division, Allotment, and Inclosure cannot be effectually made, without the Authority of Parliament:

May it therefore please YOUR MAJESTY,

Commission-
ers.

Appointment
of Surveyor.

That it may be Enacted, and be it Enacted, by the KING's Most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the Authority of the same, That *Thomas Oldknow*, of the Town and County of the Town of *Nottingham*; *Thomas Crane*, of *Melton Mowbray*, in the County of *Leicester*; *John Garton*, of *Dalby* upon the *Wolds*, in the said County of *Leicester*; *Henry Coleman*, of *Burton Overy*, in the said County of *Leicester*; *William Blower*, of *Great-Dalby*, in the said County of *Leicester*; *Hugh Platts*, of *Osgothorpe*, in the said County of *Leicester*, and *Edward Muxloe*, of *Pickwell*, in the said County of *Leicester*, Gentlemen, and their Successors, to be elected in manner herein aftermentioned, shall be, and are hereby appointed Commissioners for the setting out, allotting, dividing, and inclosing all the Open Arable Fields, Common Meadow, and Pasture Fields in the said Manor and Parish of *Asfordby*, in the said County of *Leicester*, and all the Land and Ground within the said Fields, and for putting this Act in Execution: And that the said *Thomas Oldknow*, or such Person or Persons as he and the rest of the said Commissioners, or any Four or more of them, shall appoint, shall, as soon as conveniently may be, after the Passing of this Act, survey and measure the said Fields, and all the Land and Ground therein, and reduce such Survey and Admeasurement into Writing, and therein express and ascertain the Number of Acres, Roods, and Perches belonging to each Proprietor in the said Fields, which Survey and Admeasurement shall be laid before the said Commissioners, or any Four or more of them, at some, or one of their Meetings, to be held in pursuance of this Act.

And it is hereby further Enacted, That the said Commissioners, or any Four or more of them, shall, and they are hereby authorized and required, after the said Survey shall have been laid before them, and before the Twenty-fifth Day of *March*, in the Year of our Lord, One thousand Seven

Seven hundred and Sixty-two, or as soon thereafter as conveniently may be, to set out, and allot unto, and for the said *Andrew Burnaby*, and his Successors, Rectors of the said Rectory and Church, in Lieu and full Compensation of and for all the great and small Tythes, arising, renewing, increasing, happening, or payable out of, or for the said Fields, and the Land and Ground therein, and the Houses, Yards, Gardens, Orchards, and Homesteads of the several Proprietors of Land, Ground, or Right of Common in the said Fields, and from the several Owners or Occupiers thereof, in respect of the same; and also in Lieu and Compensation of and for all *Easter Offerings*, and other Dues and Payments whatsoever to the said Rectory, belonging and payable by such of the said Owners or Occupiers (except Mortuaries and Surplice Fees) and certain Moduses or Rates, or Composition Tythes, such Parcel or Parcels of Land, as, Quantity and Quality considered, shall be equal in Value to one full Seventh Part, and no more, of all the uninclosed Land and Ground within the said Fields, exclusive of such of the Meadows which do not now pay Tythe; which Parcel or Parcels of Land, so to be set out and allotted, as aforesaid, shall be, and are hereby vested in the said Rector and his Successors, Rectors of the said Rectory, for, and in Lieu of all the Great and Small Tythes, *Easter Offerings*, and other Dues and Payments aforesaid, (except as before excepted) and in Discharge thereof; and shall be subject to the same Sort of Taxes, Charges, Levies, Assessments and Payments, as the said Great and Small Tythes, *Easter Offerings*, and other Dues and Payments (except as before excepted) now are, and in case this Act had not been passed, would have been subject to, and no other; and to set out, and allot unto, and for the said *Thomas Smith*, exclusive of such Land as shall, in pursuance of this Act, be allotted to him, in Lieu of his Land, Ground, and Common Right in the said Fields, such Parcel and Quantity of the then Residue of the said Fields, as in the Judgment of the said Commissioners, or any Four or more of them, shall be a Satisfaction and Compensation to the said *Thomas Smith*, as Lord of the said Manor, for his Interest in the Soil of the Waste Land or Ground within the same; and to set out, and appoint out of the Residue of the said Fields, one Piece of Ground, of about Three Acres, in such convenient Place or Places, near the said Town of *Asfordby* aforesaid, as the said Commissioners, or any Four or more of them, shall think proper, for the getting of Stone and Gravel for the repairing of the Public Roads and Ways, to be set out and appointed, as herein after directed, and for the Use of the Inhabitants of the Town of *Asfordby* aforesaid; and that the Herbage, growing and renewing, in and upon the same Piece of Ground, shall be, and is hereby vested in the Surveyor or Surveyors of the Highways of *Asfordby* aforesaid, for the Time being, in Trust, to lett and set the same, for the best and most Rent he or they can; and to apply the Rents and Profits thereof, in repairing the said public Roads, so to be laid and

Allotment of
Land to Rec-
tor.

To the Lord
of the Manor.

For getting
of Materials
for repairing
Roads.

and set out as aforesaid, and to account to the Inhabitants of *Asfordby* aforesaid, touching the Application of the said Rents and Profits, annually, on *Easter Monday*, at the Parish Church of *Asfordby* aforesaid; and to set out, and allot unto, and for such Person or Persons respectively, as, at the Time of such Allotment or Allotments, shall be seized of, or intitled to any Land, Ground, or Right of Common in the said Fields, in Right of, or in Trust for any Church, Hospital, School, or other public Trust; such Parcel or Parcels of the said Fields, as in the Judgment of the said Commissioners, or any Four or more of them, shall be such respective Person or Persons Proportion or Proportions thereof, after a Deduction of so much as shall, in the Judgment of the said Commissioners, or any Four or more of them, be equal in Value to his, her, or their respective Proportion of the Expence of the outside Mounding or Fencing such Allotment or Allotments respectively; and of the Charges and Expences incident to the obtaining, passing, and executing this Act; and of such other Expences as are herein after directed to be paid, and borne for them respectively, by the rest of the Proprietors of Land in the said Fields; and then to Set-out, Divide, and Allot all the then Residue of the Land and Ground in the said Fields, unto, between, and amongst the several Persons who, at the Time of making such Division and Allotment, shall be intitled to Lands, Grounds, and Right of Common, or other Property in the said Fields, (except the said *Andrew Burnaby*, as Rector of the said Rectory as to such Part of his Share, Right, Interest, and Property in the said Fields, for which an Allotment or Allotments shall be made, in Manner herein before directed) in Proportion to their several and respective Shares and Interest therein; subject nevertheless to the Rules, Orders, and Directions herein after contained; and under a due Regard to the Quantity and Quality of the Land and Ground to be allotted in Lieu thereof, and to the Convenience of every one of the said Proprietors, as far as shall or may be consistent with the general convenient Partition and Division of all the Land and Ground intended to be inclosed.)

To the rest of
the Proprie-
tors.

Lammas
Closes.

Provided always, and it is hereby further Enacted, That all the *Lammas Closes* within the said Fields, and also all such Parcels of Land there, as are now in Part inclosed, shall be allotted to the Proprietors of such Closes or Parcels of Land respectively, who shall be intitled to such further Quantity of Land, Parts of the Lands to be inclosed by virtue of this Act; or of Common Right, or other Property within the said Fields, as shall be sufficient to make good the Proportion or Share of such Proprietors respectively, in and to the Allotments to be made, in Lieu of Tythes, and other Dues aforesaid; and to the Lord of the said Manor, for his Interest in the Soil of the Waste Grounds, and for getting Materials for repairing the Roads as aforesaid; unless the said Commissioners, or any Four or more of them, in making the

Partition

Partition and Division of the said Fields, shall find it very necessary or convenient to include all or any Part of such Closes or Parcels of Lands respectively, in any Allotment or Allotments to be made to any other Person or Persons. And that, in case any Difference or Differences shall arise between any of the Parties interested in the said intended Inclosure, touching their respective Rights or Claims in, or in respect of the Land or Ground to be inclosed, it shall and may be lawful for the said Commissioners, or any Four or more of them, by and with the Consent of such Parties, to hear and examine Witnesses upon Oath, and finally to determine the same; which Oath the said Commissioners, or any Four or more of them, are hereby impowered to administer.

Differences
to be settled
by Commis-
sioners.

Provided also, and it is hereby Enacted and Declared, That nothing herein contained shall extend to, or be construed to extend to, or impower the said Commissioners, or any of them, to give any undue Preference to any of the Parties interested in the said intended Inclosure and Division; but that the said Commissioners, in such Division, shall have a due Regard, as well to the Quality, as the Quantity of the Lands and Grounds so to be divided and allotted respectively.

No undue
Preference,

Provided also, and it is hereby further Declared, and Enacted, That the said Commissioners, or any Four or more of them, shall and may ascertain, set out, and appoint such public and private Ways or Roads, and also such Ditches, Drains, Banks, Fences, Bridges, Gates, and Stiles, in, upon, and through the said Fields so intended to be inclosed, with the Affize and Breadth of such Ways and Roads, so as all such public Roads to be made shall remain Fifty Feet broad at the least between the Ditches; and which said Public Roads or Ways (except Bridle Roads and Foot Ways, in case such shall be set out by the said Commissioners, or any Four or more of them) shall be amended and repaired, at the general Expence of the Inhabitants of *Asfordby* aforesaid, in the same Manner as the present public Roads there, are, or ought to be repaired, so long as the same shall lie open to Land adjoining thereto, on one Side thereof. But, in case any one or more of the said Proprietors shall inclose from such public Road or Roads as shall be awarded, through, or on the Side of his, her, or their Allotment or Allotments; he, she, or they, and the Owner and Owners, for the Time being, of the opposite Allotment or Allotments, which shall have been before inclosed, shall, for so long Time as the Allotments on both Sides of such Road shall continue inclosed, amend, maintain, and keep in Repair, such Roads, at his, her, and their own Expence; and that all such Bridle Roads, Foot Ways, and Private Ways, and such Ditches, Drains, Banks, Fences, Bridges, Gates, and Stiles, as aforesaid, shall be for ever amended and repaired, at the Expence of all, or such of the said Proprietors, in such manner as the said Commissioners, or any Four or more of them, shall in that Behalf

For setting
out Roads.

order, direct, and appoint; and that it shall not be lawful for any Person or Persons afterwards to use, or claim the Use of any Road or Way, either old or new, public or private, over, within, or through the said Fields intended to be inclosed, or any Part or Parts thereof, either on Foot, or with Horses, Cattle, or Carriages, other than such Roads and Ways, as shall be so ascertained, set out, and appointed by the said Commissioners, as aforesaid; and that all former Roads and Ways, or so much thereof, as shall not be set out and appointed as the Roads and Ways through the said intended Inclosures, shall be deemed Part of the Land to be inclosed, and shall be divided and allotted accordingly.

Allotments to
be fenced by
the Proprie-
tors.

Within Six
Months.

And kept in
Repair as the
Commission-
ers shall di-
rect.

And it is hereby further Enacted, That all the Land and Ground, so to be allotted and set out, to and for the said *Andrew Burnaby*, and his Successors, as aforesaid, Rectors of the said Rectory, in Lieu of his said Great and Small Tythes, and *Easter* Offerings, and other Dues, as aforesaid; and in Lieu of his Glebe-Land and Right of Common, in respect thereof, in the said Fields, and the said Piece of Ground to be set out, as aforesaid, for the Purpose of getting of Stone and Gravel; and the Land and Ground to be set out and allotted to or for such Person or Persons, who, at the Time of making such Allotments as aforesaid, shall be seized of, or intitled to any Land, Ground, or Right of Common in the said Fields, in Right of, or in Trust for any Church, Hospital, School, or other public Use, shall, within the Space of Six Calendar Months next after the Execution of the Award or Instrument herein after mentioned, by, and at the Expence of the Proprietors of the Residue of the Land, Ground, and Right of Common in the said Fields, in Proportion to their respective Interests, such Proportion to be settled by the said Commissioners, or any Four or more of them, be mounded, and fenced round by Ditches and Quickset Hedges, and guarded or fenced by and with Posts and Rails, or otherwise, in such Manner as the said Commissioners, or any Four or more of them, shall, by any Writing under their Hands and Seals, direct or appoint: All which Mounds and Fences of the said respective Allotments, shall be for ever afterwards kept in Repair by the respective Owners or Occupiers of such Allotments respectively, for the Time being, on such Sides or Parts thereof, as the said Commissioners, or any Four or more of them, shall for that Purpose, in manner aforesaid, direct and appoint; and that all the Hedges, Ditches and Fences, to be made for the inclosing separating, and dividing the Residue of the said Land and Ground to be set out and allotted, pursuant to this Act, shall, within the like Space of Time, be made, and at all Times thereafter for ever repaired and maintained by, and at the Expence of such Person or Persons, and in such Manner, as the said Commissioners, or any Four or more of them, shall, by any such Writing, as aforesaid, in that Behalf, order, direct, or appoint. And that, for the better

better preserving the young Hedges, it shall and may be lawful, to and for the respective Persons, to whom any Share or Allotment shall be assigned and allotted by virtue of this Act, from Time to Time, and at all Times during the Term of Nine Years next after the Execution of such Award or Instrument as is herein after directed to be made, to set down, and place Posts and Rails, or any other Fence, on the Outside the Ditches bounding their respective Allotments, not exceeding Four Feet from such Ditches; and, at any Time or Times before the End of the said Term, to remove, take, and carry away such Posts and Rails, or other Fences, and convert the same to their respective Use.

And it is hereby further Enacted, That convenient Gaps and Openings shall be left in the said Fences and Inclosures, for the Space of Twelve Calendar Months next after the Execution of the said Award or Instrument, for the Passage of Cattle, Carts, and Carriages, in and through the same, unless the several Parties interested therein shall agree that the same shall be sooner made up. Gaps to be left Twelve Months.

And it is hereby further Enacted, That, in case any Land or Ground, upon which any Trees, Underwoods, Hedges, Bushes, or Shrubs, at the Time of such Division, shall be standing, growing, or being, shall be allotted or assigned to any Person or Persons, other than such as was or were the Proprietor or Proprietors thereof, at, and immediately before the making such Division; it shall and may be lawful to and for such Owners and Proprietors thereof, respectively, at any seasonable Time or Times, within the Space of Nine Calendar Months after such Allotment shall be made, to enter into, and upon the Land and Ground upon which such Trees, Underwoods, Hedges, Bushes, or Shrubs, shall be standing and being; and to fell and cut down, and with Horses, Carts, and Carriages, take and carry away the same, at his, her, and their Wills and Pleasures, and to and for his her and their respective Use and Benefit. Proprietors may fell and take away Trees, &c.

Provided always, That, if any such Hedges, now standing upon the Premises, shall be assigned, limited or appointed by the said Commissioners, or any Four or more of them, as, and for a Boundary, or Fence, for any of the Inclosures so intended to be made, as aforesaid, all such Hedges shall be left for the Benefit of the Person or Persons to whom such Inclosures shall belong by virtue of this Act, he, she, or they, making such Allowance and Satisfaction to the former Owners and Proprietors of such Hedges respectively, immediately before such Allotments made, and at such Time or Times, as the said Commissioners, or any Four or more of them shall, in that Behalf, order and appoint. Except when Hedges shall be left as Boundaries.

And

Commission-
ers shall draw
up an Award,

And it is hereby further Enacted, That, within the Space of Six Calendar Months, after the Division and Allotments of the said Fields shall be completed and finished, the said Commissioners, or any Four or more of them, shall form and draw up an Award or Instrument, in Writing, which shall express the Quantity and Contents, in Statute Measure, of the Acres, Roods and Perches contained in the said Fields so intended to be inclosed as aforesaid; and the Quantity and Contents of each and every Part and Parcel thereof, assigned and allotted to each of the Parties intitled to Lands, Tythes, Common-Right, or any other Property within the same, and a Description of the Situation, Buttals, and Boundaries of such Parcels and Allotments respectively, and proper Orders and Directions for and concerning the laying out and making of the Public Roads, and the Breadth thereof; and for and concerning the laying out, making, maintaining, cleansing, and keeping in Repair the Private Roads and Ways, Ditches, Drains, Banks, Fences, Bridges, Gates, and Stiles, in, upon, and over the said intended Inclosures; and also, all such Orders, Regulations, and Determinations, as are in or by this Act mentioned, directed, required, or authorised, to be made and established; and also such other Orders and Regulations as shall be necessary or proper, conformable to the true Tenor of this Act, for the more easy, convenient, and effectual Execution thereof, and for preventing all Difficulties and Disputes in relation to the Matters herein contained. Which said Award or Instrument shall be fairly ingrossed upon Parchment, and Signed and Sealed by the said Commissioners, or any Four or more of them; and shall, within Six Calendar Months, next after, the same shall be so Signed and Sealed as aforesaid, be inrolled in one of his Majesty's Courts of Record at *Westminster*, or by the Clerk of the Peace for the said County of *Leicester*; and a Copy thereof, attested by the proper Officer of the Court, where the same shall be inrolled, shall at all Times be admitted, in all Courts whatsoever, as legal Evidence of the same.

Which shall
be inrolled,

And admitted
as Evidence.

Allotments to
be in Bar of
Common
Right, and
all other
Rights.

And it is hereby further Enacted, That the several Lands and Grounds, to be divided, set out, allotted, and appointed, unto, and for the several Persons, who, by virtue of this Act, shall be entitled to the same, shall be, and are hereby vested in them respectively, in full Bar of, and Satisfaction and Compensation for their several Pieces and Parcels of Ground in the said Fields, which he, she, or they, had before the passing of this Act, or immediately before the said Allotments made, and which were, and are lying dispersed in the said Fields intended to be inclosed; and also in full Bar, Satisfaction, and Compensation, for all Right of Common, and other Right whatsoever, in, over, and upon the same; and that from, and immediately after the making of the said Divisions and Allotments, and the Execution of the said Award or Instrument of such Tenor and Purport, as aforesaid, or so soon thereafter, as the said Commissioners, or any

Four

Four or more of them, shall, by virtue of the said Award or Instrument, appoint all Right of Common, belonging to, or claimed by all and every the said Owners, Proprietors, or Occupiers of Lands, Tenements, or other Hereditaments, in, over, and upon, all the Land and Ground intended to be inclosed, as aforesaid, and every Part thereof, shall cease, determine, and be for ever extinguished; and that from, and immediately after the Execution of this said Award or Instrument, all Great and Small Tythes, *Easter* Offerings, and other Dues and Payments to the said Rectory belonging, (except such Dues, Moduses, Rates, and Contribution Tythes, as are before excepted) for, upon, or in respect of the Lands to be inclosed, by virtue of this Act, and of the Houses, Yards, Gardens, and Homesteads of the several and respective Persons, intituled to Land or Right of Common in the said Fields, shall also cease and be for ever extinguished; and that all and every Lease and Leases, at rack or extended Rent, now subsisting of all, or any Part or Parts of the said Fields intended to be inclosed, and all other Agreements, at rack or extended Rent, for any Time or Term therein, shall immediately, upon the Execution of such Award or Instrument, or so soon thereafter, as the said Commissioners, or any Four or more of them, shall by the said Award or Instrument appoint, cease, determine, and be void; the respective Owners and Proprietors, of such Part or Parts of the said Fields, who have made any such Lease or Leases, or Agreements, making such Satisfaction to such the respective Lessee or Lessees, Tenant or Tenants, as the said Commissioners, or any Four or more of them, shall ascertain as reasonable to be paid to such Lessee or Lessees, Tenant or Tenants, on Account thereof, or as Equivalent for the same.

Leases at
rack;
Rent to be
void.

And it is hereby further Enacted, That all and every Person or Persons, interested in the said intended Inclosure, shall, and he, she, and they, is, and are hereby required to accept, his, her, and their respective Allotment and Allotments, and the Guardians, Husbands, Committees, or Trustees, and any Persons acting as Guardians, Committees, or Trustees of any Person or Persons, being Minors, under Coverture, Lunatics, beyond the Seas, or otherwise incapable by Law to accept such Allotments, as aforesaid, shall be, and they are hereby enabled and required, to accept thereof, for the Use of such Person or Persons so incapacitated as aforesaid.

Proprietors
required to
accept Allot-
ments.

And it is hereby further Enacted, That in case any Person or Persons, to whom, or to whose Use or Benefit, any Land or Ground shall, by virtue of this Act, be allotted and awarded; or any Guardians, Husbands, Committees, Trustees, or Persons acting as Guardians, Committees, or Trustees, as aforesaid, shall not, within such Time as is herein before limited, inclose, hedge, ditch, and fence the several Parcels of Land and Ground, so to be allotted, and set out to, and for him, her, or them, respectively, as aforesaid, in such man-

Proprietors to
make Fences.

ner as the said Commissioners, or any Four or more of them, shall, in such their said Award, order and direct, then, and in every such Case, it shall and may be lawful, to and for the said Commissioners, or any Four or more of them, to enter into, and upon, and to let and set to any Person or Persons whatsoever, the Land and Ground, as aforesaid, which shall have been allotted to the Person or Persons so refusing or neglecting, in order for the Person or Persons, to whom the same shall be lett or set, to make and raise such Fences to the same Allotments respectively, as by the said Award shall be directed to be made, and to hold and enjoy the same Premises, until he, she, or they, shall, out of the Rents and Profits thereof, have raised and paid to him, her, or themselves, so much Money, as shall be necessarily expended in and about such Allotment or Allotments, respectively, and such Allowance for his, her, or their Trouble, and all Charges attending the same, as the said Commissioners, or any Four or more of them, shall think reasonable.

For paying
the Expences
of the Act.

And it is hereby further Enacted, That the Charges and Expences of passing this Act, and all the Costs and Charges attending the same, and the Costs and Charges of surveying, admeasuring, dividing, and allotting, all the Land and Ground so intended to be inclosed, as aforesaid, and of the preparing and inrolling the said Award or Instrument, and all other the Charges and Expences of the said Commissioners, and other necessary Expences, about, and concerning the said Premises, shall be borne and defrayed by all the Proprietors and Owners of Lands, in the said Fields, so appointed to be inclosed, (other than, and except the said *Andrew Burnaby*, as Rector as aforesaid, and such Person or Persons, to or for whom any Allotment or Allotments shall be made, for, or in respect of Land, Ground, or Right of Common, in the said Fields, appropriated to any Church, Hospital, School, or other public Use) by an equal Pound Rate, according to the Value of the Land and Ground each Person shall have allotted to him, her, or them, by virtue of this Act, to be settled, adjusted, and determined by the said Commissioners, or any Four or more of them, and that in case any of the Persons aforesaid, shall refuse or neglect to pay his, her, or their Share or Proportion, Shares or Proportions of such Charges or Expences, within the Time to be limited by the said Commissioners, or any Four or more of them, to such Person or Persons as they, or any Four or more of them, shall appoint to receive the same; then the said Commissioners, or any Four or more of them, shall and may, by Warrant under their Hands and Seals, directed to any Person or Persons whomsoever, cause the same to be levied by Distress and Sale of the Goods, and Chattels of the Person or Persons so neglecting or refusing to pay the same, rendering the Overplus (if any) on Demand, to the Owner or Owners of such Goods and Chattels, after deducting the Costs and Charges of taking or making such Distress or Distresses, and

and Sale or Sales, or otherwise, it shall, and may be lawful, to and for the said Commissioners, or any Four or more of them, to enter into, and upon the Premises, so to be allotted to such Person or Persons refusing or neglecting to pay, as aforesaid, and to take the Rents and Profits thereof, until thereby, or therewith, the Share or Shares, Proportion or Proportions of the said Costs and Charges, to be directed, awarded, and appointed by the said Commissioners, or any Four or more of them, to be paid to such Person or Persons, as aforesaid; and also, all Costs, Charges, and Expences, occasioned by, or attending such Entry upon, and Perception of the Rents and Profits of the said Premises, shall respectively be fully paid and satisfied

And it is hereby further Enacted, That the Tillage Parts of such of the said Fields to be inclosed, as aforesaid, as shall happen to be the fallow Field, the Year wherein such Divisions and Allotments shall be made, as aforesaid, shall be plowed in an husbandlike Manner, Two several Times in that Year, between the First Day of *March*, and the First Day of *August*; And that every Proprietor, who shall neglect or refuse so to plow his, or her Parts of the said Fields, in Manner as aforesaid, shall forfeit and pay to the new Proprietors, respectively, by virtue of this Act, of such Parts respectively, so not plowed, as aforesaid, Ten Shillings an Acre for every Tilt or Plowing omitted, and so in Proportion for every greater or less Quantity than an Acre, to be recovered by Application to the General or Quarter Sessions of the Peace for the County of *Leicester*, in a summary way; which Matter such Court of Sessions are hereby authorized and impowered to hear, and finally determine, and to cause the Money that shall appear to be due to any Person or Persons, complaining on the Account aforesaid, to be levied by Distress and Sale of the Offender or Offenders Goods and Chattels, by Warrant or Order of the same Court, with reasonable Costs: And also, that if any of the said Proprietors shall not have as much Tillage Land allotted to him, her, or them, in that Field, by virtue of this Act, as he, she, or they shall so plow therein, as aforesaid, he, she, and they, shall have, and receive respectively from the Proprietors of the new Allotments, respectively, such Allowance and Satisfaction, for such their ploughing, as aforesaid, as the said Commissioners, or any Four or more of them, shall think reasonable and direct, and that such Allowance and Satisfaction shall be recovered, as aforesaid, with Costs, as aforesaid.

And it is hereby further Enacted, That from and after the Twenty-ninth Day of *September*, in the Year of our Lord One thousand Seven hundred and Sixty-one, the said Commissioners, or any Four or more of them, shall order, direct, and appoint the Course of Husbandry that shall be used in the Tillage Part of the said common Fields, (except as to such ploughing as aforesaid, in that Field which shall be fallow the Year in which such Divisions and Allotments shall be made, as aforesaid) till such Time as they

they shall have compleated their said Award, and that all and every Person's Estate in the said Open Fields, shall be liable and subject to such Directions as they shall appoint, as well with Regard to the Stocking, as to the Ploughing, Tilling, Sowing, or Laying down the same.

For exchange
of Lands.

And it is hereby further Enacted, That it shall and may be lawful for any of the Proprietors of Lands, Tenements, or Hereditaments, in *Asfordby*, aforesaid, (except the said *Andrew Burnaby*, as Rector of the said Rectory) to exchange all, or any Lands, Tenements, or Hereditaments, so as all such Exchange or Exchanges, as aforesaid, be made by and with the Consent and Approbation of the said Commissioners, or any Four or more of them, and be expressed and declared in such Award or Instrument to be so made, as aforesaid; and that all and every such Exchange or Exchanges, as aforesaid, shall be made with such Consent and Approbation, as aforesaid, testified as aforesaid, shall be good, valid, and effectual in the Law, to all Intents and Purposes whatsoever.

Allotments
not to preju-
dice Wills or
Settlements.

And it is hereby also further Enacted, That nothing in this Act shall be deemed, adjudged, or taken, to revoke, make void, alter, or annul any Will or Settlement, or to prejudice any Person, having, or claiming any Jointure, Dower, Portion, Debt, Rest, Incumbrance, or other Demand, out of, upon, or affecting any of the Lands intended to be inclosed, as aforesaid, or any of the Lands, Tenements, or Hereditaments, which shall be exchanged in pursuance of this Act; but that the several Lands, Tenements, and Hereditaments, so to be allotted or exchanged, as aforesaid, shall, immediately after such Allotment or Exchange respectively, as aforesaid, be remain, and enure to the several Persons to whom the same shall be so allotted, or given in Exchange, as aforesaid; and such Persons shall, from thenceforth for ever, stand and be seized thereof, respectively, to such and the same Uses, and subject to such and the same Wills, Settlements, Limitations, Remainders, Charges, and Incumbrances, and no other, as he, she, or they, respectively, would have stood seized, of his, her, or their several Lands, Tenements, or Hereditaments, liable to be allotted or exchanged, as aforesaid, in case the same had remained uninclosed or unexchanged, or this Act had not been made.

Impowering
Rectors to
grant Leases.

And it is hereby further Enacted, That it shall, and may be lawful to and for the said *Andrew Burnaby*, and his Successors, as Rectors as aforesaid, by and with the Consent and Approbation of the Right Reverend the Bishop of *Lincoln*, to grant any Lease or Leases, to any Person or Persons, of the Land or Ground to be allotted to the said *Andrew Burnaby*, and his Successors, as Rectors as aforesaid, by virtue of this Act, or of any Part or Parts thereof, for any Term or Number

Number of Years, not exceeding Twenty-one Years, so as the same shall commence within Six Months next after the making the said Award or Instrument, and so as the Rent or Rents thereby to be reserved, be made payable to the Rectors of the said Rectory, for the Time being, and his Successors Half-yearly, and so as the usual Powers of Re-entry for Non-Payment of such Rent or Rents, and such other necessary Clauses be inserted therein, as is usual in Cases of the like Nature, any Law, Usage, or Custom, to the contrary thereof, in any wise notwithstanding.

For Twenty-one Years.

And it is hereby further Enacted, That it shall and may be lawful to and for the Guardians, Husbands, Trustees, or Committees, and for any Persons acting as Guardians, Trustees, or Committees for any Infants, Lunatics, Idiots, Femmes Covert, or beyond the Seas, and to and for any of the said Owners, being Tenants in Tail, or for Life only, and to and for every of them respectively, to or for whom any Allotment shall be made, in pursuance of this Act, (other than the said Rector, in respect to the said Rectory, and all Persons holding any Land or Ground, in Trust for any Church, Hospital, School, or other public Use) to charge the Land and Ground, which shall be so allotted to them respectively, with any Sum or Sums of Money, not exceeding Three Pounds, for every Acre of such Land and Ground, to be paid to such Person or Persons as the said Commissioners, or any Four or more of them, shall, for that Purpose, respectively, nominate and appoint, in order to be applied and disposed of, for the Purposes of paying and defraying their respective Shares and Proportions of the Charges and Expences incident to, and attending the Inclosure of such Land and Ground respectively, and of the said Land and Ground to be allotted in Lieu of Tythes and other Dues, and of the Glebe-Land and Right of Common belonging to the said Rectory, and of the Piece of Land to be set out for getting Materials for the Repair of the Highways, and of the Allotments to any Person or Persons, in Trust for any Church, Hospital, School, or other public Use; and of the obtaining, passing, and executing this Act, and for securing the Repayment of such Sum or Sums of Money, with Interest, to Grant, Mortgage, Lease or Demise the Land or Ground so to be charged as aforesaid, unto such Person or Persons as shall advance such Money respectively, for any Term or Number of Years, so as such Grant or Demise be made with a Proviso or Condition to cease and be void, or with an express Trust to be surrendered, when such Sum or Sums of Money, with the Interest thereof, shall be paid; or otherwise, it shall be lawful, at the Request of such Owners or Proprietors aforesaid (being Tenants in Tail, or for Life only, or any of them) for the said Commissioners, or any Four or more of them, by any Writing under their Hands and Seals, to authorise and im-

Lands chargeable with the Expence.

to be charged upon the said Land and Ground.

power any such Owner or Proprietor, so making such Request, to charge the Land and Ground, which in pursuance of this Act, shall be allotted to such Owner or Proprietor, by the last Will and Testament of such Owner or Proprietor, duly executed according to Law, with such Sum or Sums of Money, not exceeding Three Pounds, for every Acre so to be allotted, to be paid to such Person or Persons, as such Owner or Proprietor shall, by such his last Will and Testament, direct and appoint: And that every such Grant, Surrender, Mortgage, Lease, or Demise of the said Land, Ground and Premises, or any Part or Parts thereof so to be made, in pursuance of this Act, shall be good, valid, and effectual in Law, for the Purposes thereby intended, notwithstanding the Want of Title in such Husbonds, Guardians, Trustees, or Committees, or in the Persons acting as such, or in the said Tenants in Tail, or for Life, any Settlement, Will, Trust, Use, Remainder, Limitation, or other Incumbrance of or concerning the same Ground, Land, and Premises, or any Part or Parts thereof, then in being, or capable of taking Effect, to the contrary notwithstanding.

Notice to be
given of
Meetings.

And it is hereby further Enacted, That the said Commissioners, or any Four or more of them, do, and shall, and they are hereby required to give public Notice, in the Church of *Asfordby* aforesaid, upon some *Sunday*, immediately after Divine Service, of the Time and Place of their first and ever other Meeting, for executing the Powers hereby vested in them, at least Fourteen Days before every such Meeting (Meetings by Adjournment only excepted.) And when, and as often as, before the Expiration of One Year, after the Execution of the said Award or Instrument, any one or more of the said Commissioners appointed by this Act, or to be elected in the manner hereinafter mentioned, shall die, or refuse to act, the Persons who respectively for the Time being shall be interested in the said Fields to be inclosed as aforesaid, or the major Part in Number and Value of them, do, and shall, from Time to Time, within One Calendar Month next after the Death or Refusal to act, of such Commissioner or Commissioners shall be known, by Writing under their Hands and Seals, appoint one or more Commissioner or Commissioners, not interested in the said intended Inclosure, instead of such Commissioner or Commissioners so dying, or refusing to act as aforesaid, and every Commissioner or Commissioners, so to be appointed as aforesaid, shall have the like Power and Authority, by virtue of this Act, as the Commissioner or Commissioners, in whose Place or Places he or they shall succeed, was, or were vested with, provided that Notice be given in the Church of *Asfordby* aforesaid, upon some *Sunday*, immediately after Divine Service, of the Time and Place of Meeting, to choose such Commissioner or Commissioners, at least Fourteen Days before every such Meeting.

Provided

Provided always, and be it further Enacted, by the Authority aforesaid, That all and every the Quit-Rents issuing out of, or due or payable, or to become due and payable, to the Lord or Lords of the Manor of *Asfordby*, aforesaid, for the Time being, in respect of any of the Lands of the Owners and Proprietors in the said Open, Arable, Common Meadow, and Pasture Fields, or in any of them, shall, after making the Award or Instrument herein beforementioned, in Manner as aforesaid, be payable out of, and charged upon such Parts and Shares of the same, as to the Owners and Proprietors shall be therein respectively allotted, and set forth, in Lieu of their respective former Lands, and from that Time the Persons, to whom such former Lands shall be allotted upon the said Division, shall, in respect of such Lands, be freed and discharged from Payment of any Quit-Rent, which shall have been issuing thereout before such Division.

Provided always, and it is hereby further Enacted, That nothing in this Act contained, shall prejudice, lessen, or defeat the Right, Title, or Interest of the said *Thomas Smith*, his Heirs, or Assigns, as Lord of the said Manor, or any future Lord or Lords thereof, in, or to, any of the Royalties or Seigniories incident and belonging to the said Manor of *Asfordby*; but that the said *Thomas Smith*, and all and every Person and Persons, claiming under, or in Trust for him, as Lord of the said Manor, and all other succeeding Lords of the said Manor for the Time being, shall and may, at all Times for ever hereafter, hold and enjoy all Rents, Services, Courts, Perquisites, and Profits of Courts, Goods and Chattels of Felons and Fugitives, Felons of themselves, and put in exigent Deodands, Waifs, Estrays, and Forfeitures, and all Mines, and Quarries of Stone and Coal, and other Minerals, lying, being, or to be found in any of the Shares or Allotments made to the several other Persons, in respect of their several Estates within the said Manor; and all other Royalties, Jurisdictions, Rights, and Pre-eminencies whatsoever, to the said Manor incident, appendant, belonging, or appertaining (other than, and except the Right of Soil, in such of the present Roads and Waste Grounds, as shall, in virtue of this Act, be allotted to any other Person or Persons; and the Right of Common, that can or may be claimed by the Lord or Lords of the said Manor, merely as such, upon the Fields hereby intended to be inclosed) in as full, ample, and beneficial Manner, to all Intents and Purposes, as he or they could have held and enjoyed the same, in case this Act had not been made.

Saving, To the KING's MOST EXCELLENT *MAYESTY*, his Heirs and Successors, and to all and every other Person and Persons, Bodies Politic and Corporate, his, her, and their Heirs, Successors, Executors and Administrators, other than, and except the said *Thomas Smith*, the Rector of the said Rectory for the Time being, and the

the said *Richard*, Lord Viscount *Howe*, *John Hill*, *Eleanor Hill*, *John Hubbard*, *Thomas Reeve*, and all other Persons to whom any Allotment or Allotments, Appointment or Appointments shall be made, in pursuance of this Act, his, her, and their Heirs, Successors, Executors, and Administrators, respectively, all such Estate, Right, Title, and Interest, as they, every, or any of them, had and enjoyed, of, in, to, and out of the said Fields, and the Land and Ground therein, so intended and appointed to be inclosed, as aforesaid, before the passing this Act; or could or ought to have had, or enjoyed, in case the same had not been made. But no such other Person or Persons, Bodies Politic or Corporate, his, her, or their Heirs, Executors, Administrators, or Successors, shall have Power to disturb any of the Allotments or Appointments to be made, in pursuance of this Act; but shall accept the several Allotments which shall be made, in Lieu of the said Fields, Common Right, and other Interest, which he, she, or they, would have been intitled to, in case this Act had not been made; and shall be intitled to recover such Allotments, as fully as he, she, or they would have been intitled to have recovered the Land, Ground, and Right of Common, in Lieu of which such Allotments shall be made, as aforesaid.

For Dicing and Inclosing
the Open and Common Fields
of Asfordby, in the County
of Leicester.

1761.

A
C
T